HOUSE BILL No. 1577

DIGEST OF INTRODUCED BILL

Citations Affected: IC 2-2.1; IC 4-10-21; IC 4-13-2-18.

Synopsis: State spending cap. Imposes general expenditure controls on the state. Provides procedures for the implementation of the spending controls. Permits the general assembly to appropriate and the state to expend an amount exceeding the general expenditure limit if at least two-thirds of the members of the senate and two-thirds of the members of the house of representatives adopt a resolution declaring the general assembly's intent to authorize the additional expenditure. Repeals the business cycle state spending controls.

Effective: Upon passage; June 30, 2009.

Clere, Noe

January 16, 2009, read first time and referred to Committee on Rules and Legislative Procedures.

Introduced

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

HOUSE BILL No. 1577

A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 2-2.1-4 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 4. General Expenditure Controls

Sec. 1. This chapter applies only to appropriations and allotments for state fiscal years that begin after June 30, 2009.

Sec. 2. As used in this chapter, "budget period" means a biennium beginning July 1 of an odd-numbered year.

Sec. 3. As used in this chapter, "controlled state fund" refers to the following:

(1) The state general fund.

(2) The counter-cyclical revenue and economic stabilization fund.

(3) The state tuition reserve fund.

Sec. 4. (a) As used in this chapter, "expenditure" refers to an expenditure from a controlled state fund in a state fiscal year.

(b) The term does not include the following:

(1) A payment of a tax refund or refundable tax credit related to a state tax liability.

(2) A transfer between controlled state funds or accounts within a controlled state fund.

(3) The costs of judgments and settlements.

(4) A distribution of revenue from any of the following excise taxes to a political subdivision (as defined in IC 36-1-2-13):

(A) Financial institutions excise tax (IC 6-5.5).

(B) Motor vehicle excise taxes (IC 6-6-5).

(C) Commercial vehicle excise taxes (IC 6-6-5.5).

(D) Boat excise tax (IC 6-6-11).

(E) Aircraft excise tax (IC 6-6-6.5).

(5) A distribution of state tax revenues collected under IC 7.1 that is payable to a city or town.

(6) The costs of making motor vehicle excise tax replacement payments.

(7) A distribution or an allocation of state tax revenues to a unit of local government under IC 36-7-13, IC 36-7-26, IC 36-7-27, IC 36-7-31, or IC 36-7-31.3.

(8) The costs of providing supplemental distributions under IC 4-33-13-5 to replace riverboat admissions taxes.

(9) A transfer from the state general fund to the build Indiana fund required under IC 4-33-13-5(d).

(10) A distribution of state tax revenues collected under any other statute that is:

(A) deposited in a controlled state fund; and

(B) payable to a political subdivision.

Sec. 5. As used in this chapter, "IPI growth quotient" refers to the Indiana personal income growth quotient determined under section 7 of this chapter.

Sec. 6. As used in this chapter, "state spending cap" for a state fiscal year refers to the limit on expenditures determined under section 8 of this chapter.

Sec. 7. (a) The IPI growth quotient for a specified state fiscal year is the amount determined under STEP THREE of the following formula:

STEP ONE: For each of the six (6) calendar years immediately preceding the specified state fiscal year, divide:

(A) the Indiana personal income for the calendar year; by

(B) the Indiana personal income for the immediately preceding calendar year.

STEP TWO: Add the quotients determined under STEP ONE.

STEP THREE: Divide:

(A) the STEP TWO result; by

(B) six (6).

(b) Not later than January 31 of each odd-numbered year, the budget agency shall determine the IPI growth quotient for the state fiscal year beginning July 1 of the odd-numbered year. Computation of the IPI growth quotient shall be based on Indiana personal income, as computed by the federal Bureau of Economic Analysis or its successor using any actual data for a calendar year and any estimated data by the federal Bureau of Economic Analysis or its successor, determined appropriate.

(c) The budget agency shall publish the IPI growth quotient determined under subsection (b) for a particular budget period in the Indiana Register not later than February 15 of each odd-numbered year. In addition, the budget agency shall publish historic IPI growth quotient data in the Indiana Register not later than July 1 of each odd-numbered year.

Sec. 8. (a) The maximum total expenditure allowed from controlled state funds for a budget period is the sum of the maximum total expenditures allowed from controlled state funds for each state fiscal year of the budget period.

(b) The maximum total expenditure allowed from controlled state funds for the state fiscal year beginning July 1, 2009, is the amount determined under STEP SIX of the following formula:

STEP ONE: Determine the actual total expenditure from controlled state funds for the state fiscal year beginning July 1, 2007.

STEP TWO: Adjust the STEP ONE result to account for differences in spending responsibilities from controlled state funds between:

(A) the state fiscal year beginning July 1, 2007; and

(B) the state fiscal year beginning July 1, 2009;

in terms of actual expenditures for the state fiscal year beginning July 1, 2007.

STEP THREE: Determine the IPI growth quotient for the state fiscal year beginning July 1, 2008.

STEP FOUR: Multiply:

(A) the STEP TWO result; by

(B) the STEP THREE result.

STEP FIVE: Determine the IPI growth quotient for the state fiscal year beginning July 1, 2009.

STEP SIX: Multiply:

(A) the STEP FOUR result; by

(B) the STEP FIVE result.

(c) This subsection applies only to state fiscal years beginning in an odd-numbered year after June 30, 2011. The maximum total expenditure allowed from controlled state funds for the first state fiscal year of a budget period beginning July 1 of an odd-numbered year is the amount determined under STEP THREE of the following formula:

STEP ONE: Determine the maximum total expenditure allowed from controlled state funds for the state fiscal year beginning July 1 of the immediately preceding even-numbered year, as calculated under subsection (d).

STEP TWO: Determine the IPI growth quotient for the first state fiscal year of the budget period.

STEP THREE: Multiply:

(A) the STEP ONE result; by

(B) the STEP TWO result.

(d) This subsection applies only to state fiscal years beginning in an even-numbered year after June 30, 2010. The maximum total expenditure allowed from controlled state funds for the second state fiscal year of a budget period beginning July 1 of an even-numbered year is the amount determined under STEP THREE of the following formula:

STEP ONE: Determine the maximum total expenditure allowed from controlled state funds for the first state fiscal year of the budget period, as calculated under subsection (b) or (c).

STEP TWO: Determine an estimated IPI growth quotient for the second state fiscal year of the budget period, based on an estimate by the budget agency of Indiana personal income for the calendar year that includes July 1 of the first state fiscal year of the budget period.

STEP THREE: Multiply:

(A) the STEP ONE result; by

(B) the STEP TWO result.

(e) The budget agency shall publish:

(1) the maximum total expenditure amounts determined under subsections (a), (b), (c), and (d), as applicable; and

(2) the IPI growth quotients for each state fiscal year;

for the budget period beginning July 1 of an odd-numbered year in the Indiana Register not later than February 15 of the odd-numbered year. Except for revisions to correct calculation

errors, the maximum total expenditure amounts published under this subsection remain in effect for the duration of the corresponding budget period.

Sec. 9. Except as provided in sections 10, 11, and 14 of this chapter, the state spending cap for a state fiscal year equals the amount of the maximum total expenditure determined under section 8(b), 8(c), or 8(d) of this chapter, as applicable. The general assembly shall not appropriate, and the budget director may not allot, a total sum of expenditures in a state fiscal year that exceeds the state spending cap.

Sec. 10. The general assembly, by approval of a two-thirds (2/3) majority of the house of representatives and a two-thirds (2/3) majority of the senate, may increase the state spending cap above the amount that would otherwise be permitted by application of the IPI growth quotient. However, an action of the general assembly under this section may be taken only if the action is taken for one (1) or more of the following reasons:

(1) A spending responsibility has shifted from another level of government to a controlled state fund.

(2) A spending responsibility has shifted from a fund not limited by this chapter to a fund limited by this chapter.

(3) There will be in the state fiscal year in which the increased state spending cap initially applies:

(A) an expansion of state services that requires additional state expenditures; and

(B) additional revenue from a tax increase that has been enacted to finance the additional state services and spending.

Sec. 11. The general assembly, in a regular session, may authorize an emergency appropriation by enacting a supplemental appropriations act and a joint resolution that contains all the statements described in section 12 of this chapter. A supplemental appropriations act must be approved by a two-thirds (2/3) majority of the house of representatives and a two-thirds (2/3) majority of the senate.

Sec. 12. A joint resolution described in section 11 of this chapter must contain the following:

(1) A statement that all spending authorized in the act exceeds the limit of the state spending cap.

(2) A description of the amount of emergency expenditures and an explanation of the specific circumstances that created the need for a supplemental appropriation.

Sec. 13. Except as allowed in an emergency appropriation under section 11 of this chapter, all appropriations for expenditures for a state fiscal year, including continuing appropriations, are void if the total amount appropriated for expenditures exceeds the amount allowed by the state spending cap for the state fiscal year under this chapter. If the appropriations for a state fiscal year are voided under this section, the general assembly in a regular or special session may reappropriate an amount that does not exceed the amount allowed by the state spending cap under this chapter.

Sec. 14. (a) Subject to subsection (c), reductions in the state spending cap are mandatory in each year when spending responsibility is:

(1) shifted from a controlled state fund or to another level of government; or

(2) transferred from a controlled state fund to a fund that is not limited by this chapter.

The state spending cap must be decreased by the amount of the shift or transfer.

(b) The amount of the state spending cap reduction shall be determined by the budget agency upon the recommendation of the budget committee by a simple majority vote.

(c) If the budget agency determines that:

(1) the amount of a state spending cap reduction required under subsection (a) is less than one-tenth of one percent (0.1%); or

(2) there is a need to waive the mandatory downward adjustment;

the state spending cap reduction must receive a unanimous recommendation from the budget committee to take effect.

SECTION 2. IC 2-2.1-5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 5. Budget Bill Requirements

Sec. 1. This chapter applies only to appropriations and allotments for state fiscal years that begin after June 30, 2009.

Sec. 2. As used in this chapter, "controlled state fund" has the meaning set forth in IC 2-2.1-4-3.

Sec. 3. As used in this chapter, "digest" refers to the description of the contents of a bill or a conference committee report that is located on:

(1) the cover page of a bill; or

(2) the first page of a conference committee report.

Sec. 4. As used in this chapter, "expenditure" has the meaning set forth in IC 2-2.1-4-4.

Sec. 5. The digest of a budget bill or a conference committee report on a budget bill must contain the following information:

(1) The total amount of appropriations from controlled state funds.

(2) The total amount of appropriations for expenditures subject to IC 2-2.1-4 from controlled state funds.

(3) The expenditure limit for controlled state funds established under IC 2-2.1-4.

SECTION 3. IC 4-13-2-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. (a) For the purpose of the administration of the allotment system provided by this section, each fiscal year shall be divided into four (4) quarterly allotment periods, beginning respectively on the first day of July, October, January, and April. However, in any case where the quarterly allotment period is impracticable, the ~~state~~ budget director may prescribe a different period suited to the circumstances but not extending beyond the end of any fiscal year.

(b) Except as otherwise expressly provided in this section, the provisions of this chapter relating to the allotment system and to the encumbering of funds shall apply to appropriations and funds of all kinds, including standing or annual appropriations and dedicated funds, from which expenditures are to be made from time to time by or under the authority of any state agency. However, the provisions relating to the allotment system shall not apply to moneys made available for the purpose of conducting a postaudit of financial transactions of any state agency. Likewise, appropriations for construction or for the acquisition of real estate for public purposes may be exempted from the allotment system by the ~~state~~ budget director, but in such cases ~~he~~ **the budget director** shall prescribe such regulations as will insure the proper application and encumbering of funds.

(c) No appropriation to any state agency shall become available for expenditure until:

(1) such state agency shall have submitted to the ~~state~~ budget agency a request for allotment, such request for allotment to consist of an estimate of the amount required for each activity and each purpose for which money is to be expended during the applicable allotment period; and

(2) such estimate contained in the request for allotment shall have been approved, increased, or decreased by the ~~state~~ budget director and funds allotted therefor as hereinafter provided.

The form of a request for allotment, including a request by hand, mail, facsimile transmission, or other electronic transmission, shall be prescribed by the ~~state~~ budget agency with the approval of the auditor of state and shall be submitted to them at least twenty-five (25) days prior to the beginning of the allotment period.

(d) Each request for allotment shall be reviewed by the ~~state~~ budget agency, and respective amounts therein shall be allotted for expenditure if:

(1) the estimate therein is within the terms of the appropriation as to amount and purpose, having due regard for the probable future needs of the state agency for the remainder of the fiscal year or other term for which the appropriation was made; and

(2) the agency contemplates expenditure of the allotment during the period.

Otherwise, the ~~state~~ budget agency shall modify the estimate so as to conform with the terms of the appropriation and the prospective needs of the state agency and shall reduce the amount to be allotted accordingly. The ~~state~~ budget agency shall act promptly upon all requests for allotment and shall notify every state agency of its allotments at least five (5) days before the beginning of each allotment period. The total amount allotted to any agency for the fiscal year or other term for which the appropriation was made shall not exceed the amount appropriated for such year or term.

(e) The ~~state~~ budget director shall also have authority at any time to modify or amend any allotment previously made by ~~him.~~ **the budget director.**

(f) In case the ~~state~~ budget director shall discover at any time that:

(1) the probable receipts from taxes or other sources for any fund will be less than were anticipated; and

(2) as a consequence the amount available for the remainder of the term of the appropriation or for any allotment period will be less than the amount estimated or allotted therefor;

~~he~~ **the budget director** shall, with the approval of the governor, and after notice to the state agency or agencies concerned, reduce the amount or amounts allotted or to be allotted so as to prevent a deficit.

(g) This subsection applies to state fiscal years beginning after June 30, 2009. The definitions in IC 2-2.1-4 apply throughout this subsection. Allotments for a state fiscal year that exceed the state spending cap are void. The budget agency shall allot money for an appropriation, including an appropriation that is not made in a specific amount, to provide that the total allotment for expenditures from controlled state funds in a state fiscal year does

not exceed the state spending cap. If the budget director discovers that the projected expenditures for the remainder of a state fiscal year probably will exceed the state spending cap, the budget director shall, with the approval of the governor and after notice to the state agency or agencies concerned, reduce the amount or amounts allotted or to be allotted to prevent a total allotment that exceeds the state spending cap.

~~(g)~~ **(h)** The ~~state~~ budget agency shall promptly transmit records of all allotments and modifications thereof to the auditor of state.

~~(h)~~ **(i)** The auditor of state shall maintain as a part of the central accounting system for the state, as hereinbefore provided, records showing at all times, by funds, accounts, and other pertinent classifications, the amounts appropriated, the estimated revenues, the actual revenues or receipts, the amounts allotted and available for expenditure, the total expenditures, the unliquidated obligations, actual balances on hand, and the unencumbered balances of the allotments for each state agency.

~~(i)~~ **(j)** No payment shall be made from any fund, allotment, or appropriation unless the auditor of state shall first certify that there is a sufficient unencumbered balance in such fund, allotment, or appropriation after taking into consideration all previous expenditures to meet the same. In the case of an obligation to be paid from federal funds, a notice of **a** federal grant award shall be considered an appropriation against which obligations may be incurred, funds may be allotted, and encumbrances may be made.

~~(j)~~ **(k)** Every expenditure or obligation authorized or incurred in violation of the provisions of this chapter shall be void. Every payment made in violation of the provisions of this chapter shall be illegal, and every official authorizing or making such payment, or taking part therein, and every person receiving such payment, or any part thereof, shall be jointly and severally liable to the state for the full amount so paid or received. If any appointive officer or employee of the state shall knowingly incur any obligation or shall authorize or make any expenditure in violation of the provisions of this chapter, or take any part therein, it shall be ground for ~~his~~ **the officer's or employee's** removal by the officer appointing ~~him,~~ **the officer or employee,** and if the appointing officer be other than the governor and shall fail to remove such officer or employee, the governor may exercise such power of removal after giving notice of the charges and opportunity for hearing thereon to the accused officer or employee and to the officer appointing ~~him.~~ **the officer or employee.**

SECTION 4. IC 4-10-21 IS REPEALED [EFFECTIVE JUNE 30, 2009].

SECTION 5. [EFFECTIVE UPON PASSAGE] **(a) IC 2-2.1-4, as added by this act, and IC 4-13-2-18, as amended by this act, apply to appropriations enacted by the general assembly in 2009 for the state fiscal year that begins after June 30, 2009, and ends before July 1, 2010, regardless of:**

(1) whether this act is enacted before or after any other legislation appropriating money for that state fiscal year; and

(2) when the budget agency publishes the information required to be published in 2009 under IC 2-2.1-4-7 or IC 2-2.1-4-8.

The budget agency shall publish the information required to be published in 2009 under IC 2-2.1-4-7 and IC 2-2.1-4-8 as soon as practicable after this SECTION becomes effective.

(b) IC 2-2.1-5, as added by this act, applies to appropriations enacted in a regular or special session in 2009 only to the extent that this SECTION becomes effective before the date the digest for a bill or conference committee report containing an appropriation is printed and distributed to the members of the general assembly.

(c) This SECTION expires July 1, 2010.

SECTION 6. **An emergency is declared for this act.**